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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,071	05/09/2001	Mark K. Branson	Z1154/01101	3527

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EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 12/17/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,071

Applicant(s)

BRANSON ET AL.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2003 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the thickened portion and its relation to the first and second segment must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Specifically, it is unclear how the first and second segments "merge" to a thickened portion and whether this thickened portion is the sum of the thicknesses of the two thread segments. Moreover, it is unclear how the thread thickness changes from the first thickness to the thickness of the thickened portion to the thickness of the second segment. Furthermore, the thread having a constant pitch is not shown. At least at the thickened portion, there appears to be a change in thread pitch, especially if the cap rises more rapidly at this portion during removal.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 24- 43 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 24-43 are rejected as it is unclear if the thickened portion and the second segment having a thickness are the same "thickness" or if the thickened portion is the combination of the two thread segment thicknesses (the thickness at the thickened portion equals the thickness of the first segment plus the thickness of the second segment). Furthermore, it is unclear how the two thread segments "merge".

With respect to claims 26-27, 33, 35 and 43, it is unclear how the thread can have a constant pitch and be more rapidly displaced at the thickened portion. If the thread were of a constant pitch than the cap would be displaced at the same rate throughout removal.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 24-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 24-43 are rejected as the interrelationship between the different portions of the thread are unclear. Specifically it is unclear how the thickness of the first segment and the thickness of the second segment merge to a thickened portion and what exactly the thickness of this portion is.

With respect to claims 26-27, 33, 35 and 43, it is unclear how the thread can have a constant pitch and be more rapidly displaced at the thickened portion. If the thread were of a constant pitch than the cap would be displaced at the same rate throughout removal.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 24-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Virog Jr., et al. (US 4,180,175).

To the degree that applicant's claims are understood, Virog et al. teaches a container with at least one thread having first and second thread segments with first and second ends comprising the upper and lower portions of each of the threads

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respectively. The portion in the middle is considered to be the thickened portion. Each of the first and second segments is tapered at the first and second ends. Depending upon the location selected along the first and second segments, the thickness of the thread varies, and the thickness at the first segment can be larger or smaller than the thickness at the second segment. The container neck has a lug 33.

With respect to claims 26-27, 33, 35 and 43, the thread has a constant pitch and as applicant has set forth no structure different from that which is taught by Virog et al., the cap must be more rapidly displaced at the thickened portion.

With respect to claims 40-43, the closure has at least one thread with the same configuration as the thread on the container neck. The closure has a lug 34.

9. Claims 24-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones et al. (US 6,279,766).

To the degree that applicant's claims are understood, Jones et al. teaches a container with at least one thread having first and second thread segments with first and second ends comprising the upper and lower portions of each of the threads respectively. The portion in the middle is considered to be the thickened portion. Each of the first and second segments is tapered at the first and second ends. Depending upon the location selected along the first and second segments, the thickness of the thread varies, and the thickness at the first segment can be larger or smaller than the thickness at the second segment. The container neck has a lug 5.

With respect to claims 26-27, 33, 35 and 43, the thread has a constant pitch and as applicant has set forth no structure different from that which is taught by Jones et al., the cap must be more rapidly displaced at the thickened portion.

With respect to claims 40-43, the closure has at least one thread with the same configuration as the thread on the container neck. The closure has a lug 2.


Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dunn Jr. et al., Cherba and the EP reference teach similar threaded container necks and closures to what applicant is claiming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


Nathan J. Newhouse
Primary Examiner
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